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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION

13
14 TYRONE JOSEPH PORTEE,

No. 1:20-CV-1414-EPG

15 Plaintiff,

STIPULATION AND ORDER FOR EXTENSION
16 TO FILE DEFENDANT'S OPPOSITION TO
17 PLAINTIFF'S OPENING BRIEF

v.

18 KILOLO KIJAKAZI,
Acting Commissioner of Social Security,

19 Defendant.

20 The parties stipulate through counsel that Defendant, the Commissioner of Social Security
21 (the “Commissioner”), shall have an extension of time to file her opposition to Plaintiff’s opening
22 brief in this case. In support of this request, the Commissioner respectfully states as follows:

23 1. Primary responsibility for handling this case has been delegated to the Office of
24 the Regional Chief Counsel, Region IX, in San Francisco, California (the “Region IX Office”).

25 2. Defendant’s response to Plaintiff’s opening brief is currently due February 17,
26 2022. Defendant has not previously requested an extension of time for this deadline.

27 3. The Region IX Office currently handles all district and circuit court litigation

1 involving the Social Security program arising in Arizona, California, Hawai‘i, Nevada, and
2 Guam.

3 4. The Region IX Office employs 44 staff attorneys, of whom 30 are actively
4 handling civil litigation involving the Social Security program in the eight assigned jurisdictions.
5 Most of the attorneys who handle program litigation cases have additional responsibilities, such
6 as litigating in other practice areas described below, acting as Jurisdictional leads, reviewing the
7 work product of junior attorneys, conducting trainings, and participating in national workgroups.
8 In addition, because of attorneys taking unexpected leave or resigning, the Region IX Office has
9 had to re-assign dozens of cases and substitute in new counsel who have had to absorb these re-
10 assigned cases into their existing caseloads.

11 5. As of January 13, 2022, the Region IX Office has 344 district court briefs due in
12 the next thirty days in the jurisdictions it handles. In addition, the Region IX Office has 12
13 appellate cases pending for briefing.

14 6. In addition to this “program” litigation, the 30 staff attorneys in the Region IX
15 Office maintain other workload responsibilities, with most of them dedicating 40 percent or more
16 of their time to these workloads. The Region IX Office provides a full range of legal services as
17 counsel for the Social Security Administration, in a region that covers four states (including the
18 most populous state in the nation) and three territories. These other workloads include
19 employment litigation; civil rights investigations; bankruptcy matters; and requests for legal
20 advice on wide-ranging topics, including employee conduct and performance, reasonable
21 accommodation, hostile work environment, ethics, Privacy Act and disclosure, torts, property,
22 and contracts.

23 7. The undersigned attorney has 27 briefs due in district court cases over the next
24 sixty days, with 13 due in the next 30 days, and has to prioritize reassigned cases with imminent
25 deadlines that have already been extended.

26 8. Due to the volume of the overall workload within the Region IX Office, neither the
27 undersigned attorney nor another attorney in the Region IX Office anticipate being able to
28 complete briefing by the current due date of February 17, 2022. Therefore, Defendant seeks an

extension of 60 days, until April 18, 2022 to respond to Plaintiff's opening brief.

9. This request is made in good faith and is not intended to delay the proceedings in this matter.

WHEREFORE, Defendant requests until April 18, 2022, to file her opposition to Plaintiff's opening brief.

Respectfully submitted,

DATE: February 10, 2022

/s/ Jonathan Peña
JONATHAN PEÑA
Attorney for Plaintiff
(as approved via email on 2/10/22)

PHILLIP A. TALBERT
Acting United States Attorney

DATE: February 10, 2022

By *s/Sathya Oum*
SATHYA OUM
Special Assistant United States Attorney

Attorneys for Defendant

ORDER

Pursuant to the parties' stipulation (ECF No. 24), IT IS HEREBY ORDERED that Defendant shall file and serve a Responsive Brief by April 18, 2022. All remaining deadlines in the Scheduling Order (ECF No. 5) are extended accordingly.

IT IS SO ORDERED.

Dated: **February 11, 2022**

/s/ Eric P. Gross
UNITED STATES MAGISTRATE JUDGE